

Matthew Franklin Jaksa (CA State Bar No. 248072)
HOLME ROBERTS & OWEN LLP
560 Mission Street, 25th Floor
San Francisco, CA 94105-2994
Telephone: (415) 268-2000
Facsimile: (415) 268-1999
Email: matt.jaksa@hro.com

Attorneys for Plaintiffs,
BMG MUSIC; UMG RECORDINGS, INC.; SONY
BMG MUSIC ENTERTAINMENT; ARISTA
RECORDS LLC; CAPITOL RECORDS, INC.; and
WARNER BROS. RECORDS INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BMG MUSIC, a New York general partnership;
UMG RECORDINGS, INC., a Delaware
corporation; SONY BMG MUSIC
ENTERTAINMENT, a Delaware general
partnership; ARISTA RECORDS LLC, a
Delaware limited liability company; CAPITOL
RECORDS, INC., a Delaware corporation; and
WARNER BROS. RECORDS INC., a Delaware
corporation,

Plaintiffs,

v.

JOHN DOE,

Defendant.

CASE NO.

COMPLAINT FOR COPYRIGHT
INFRINGEMENT

ADR

ORIGINAL
FILED

SEP 20 2007

E-filing

RICHARD W. WICKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

07-04873 JSW

JURISDICTION AND VENUE

1
2 1. This is a civil action seeking damages and injunctive relief for copyright infringement
3 under the copyright laws of the United States (17 U.S.C. § 101 *et seq.*).

4 2. This Court has jurisdiction under 17 U.S.C. § 101 *et seq.*; 28 U.S.C. § 1331 (federal
5 question); and 28 U.S.C. § 1338(a) (copyright).

6 3. Venue in this District is proper. See 28 U.S.C. §§ 1391(b), 1400(a). Although the
7 true identity of Defendant John Doe ("Defendant") is unknown to Plaintiffs at this time, on
8 information and belief, Defendant may be found in this District and/or a substantial part of the acts
9 of infringement complained of herein occurred in this District. On information and belief, personal
10 jurisdiction in this District is proper because Defendant, without consent or permission of the
11 copyright owner, disseminated over the Internet copyrighted works owned and/or controlled by
12 Plaintiffs. On information and belief, such illegal dissemination occurred in every jurisdiction in the
13 United States, including this one. In addition, Defendant contracted with an Internet Service
14 Provider ("ISP") found in this District to provide Defendant with the access to the Internet which
15 facilitated Defendant's infringing activities.

PARTIES

16
17 4. Plaintiff BMG Music is a general partnership duly organized and existing under the
18 laws of the State of New York, with its principal place of business in the State of New York.

19 5. Plaintiff UMG Recordings, Inc. is a corporation duly organized and existing under the
20 laws of the State of Delaware, with its principal place of business in the State of California.

21 6. Plaintiff SONY BMG MUSIC ENTERTAINMENT is a Delaware general
22 partnership, with its principal place of business in the State of New York.

23 7. Plaintiff Arista Records LLC is a limited liability company duly organized and
24 existing under the laws of the State of Delaware, with its principal place of business in the State of
25 New York.

26 8. Plaintiff Capitol Records, Inc. is a corporation duly organized and existing under the
27 laws of the State of Delaware, with its principal place of business in the State of New York.
28

1 Copyrighted Recordings, Defendant has violated Plaintiffs' exclusive rights of reproduction and
2 distribution. Defendant's actions constitute infringement of Plaintiffs' copyrights and/or exclusive
3 rights under copyright. (In addition to the sound recordings listed on Exhibit A, Plaintiffs are
4 informed and believe Defendant has, without the permission or consent of Plaintiffs, continuously
5 downloaded and/or distributed to the public additional sound recordings owned by or exclusively
6 licensed to Plaintiffs or Plaintiffs' affiliate record labels, and Plaintiffs believe that such acts of
7 infringement are ongoing. Exhibit A includes the currently-known total number of audio files being
8 distributed by Defendant.)

9 15. Plaintiffs have placed proper notices of copyright pursuant to 17 U.S.C. § 401 on
10 each respective album cover of each of the sound recordings identified in Exhibit A. These notices
11 of copyright appeared on published copies of each of the sound recordings identified in Exhibit A.
12 These published copies were widely available, and each of the published copies of the sound
13 recordings identified in Exhibit A was accessible by Defendant.

14 16. Plaintiffs are informed and believe that the foregoing acts of infringement have been
15 willful, intentional, and in disregard of and with indifference to the rights of Plaintiffs.

16 17. As a result of Defendant's infringement of Plaintiffs' copyrights and exclusive rights
17 under copyright, Plaintiffs are entitled to statutory damages pursuant to 17 U.S.C. § 504(c) against
18 Defendant for each infringement of each copyrighted recording. Plaintiffs further are entitled to
19 their attorneys' fees and costs pursuant to 17 U.S.C. § 505.

20 18. The conduct of Defendant is causing and, unless enjoined and restrained by this
21 Court, will continue to cause Plaintiffs great and irreparable injury that cannot fully be compensated
22 or measured in money. Plaintiffs have no adequate remedy at law. Pursuant to 17 U.S.C. §§ 502
23 and 503, Plaintiffs are entitled to injunctive relief prohibiting Defendant from further infringing
24 Plaintiffs' copyrights, and ordering that Defendant destroy all copies of copyrighted sound
25 recordings made in violation of Plaintiffs' exclusive rights.

26 ///

27 ///

28 ///

WHEREFORE, Plaintiffs pray for judgment against Defendant as follows:

1. For an injunction providing:

"Defendant shall be and hereby is enjoined from directly or indirectly infringing Plaintiffs' rights under federal or state law in the Copyrighted Recordings and any sound recording, whether now in existence or later created, that is owned or controlled by Plaintiffs (or any parent, subsidiary, or affiliate record label of Plaintiffs) ("Plaintiffs' Recordings"), including without limitation by using the Internet or any online media distribution system to reproduce (*i.e.*, download) any of Plaintiffs' Recordings or to distribute (*i.e.*, upload) any of Plaintiffs' Recordings, except pursuant to a lawful license or with the express authority of Plaintiffs. Defendant also shall destroy all copies of Plaintiffs' Recordings that Defendant has downloaded onto any computer hard drive or server without Plaintiffs' authorization and shall destroy all copies of those downloaded recordings transferred onto any physical medium or device in Defendant's possession, custody, or control."

2. For statutory damages for each infringement of each Copyrighted Recording pursuant to 17 U.S.C. § 504.

3. For Plaintiffs' costs in this action.

4. For Plaintiffs' reasonable attorneys' fees incurred herein.

5. For such other and further relief as the Court may deem just and proper.

Dated: September 20, 2007

HOLME ROBERTS & OWEN LLP

By: 

MATTHEW FRANKLIN JAKSA

Attorney for Plaintiffs

BMG MUSIC; UMG RECORDINGS, INC.; SONY BMG MUSIC ENTERTAINMENT; ARISTA RECORDS LLC; CAPITOL RECORDS, INC.; and WARNER BROS. RECORDS INC.

EXHIBIT A**JOHN DOE****IP Address:** 138.202.52.217 2007-02-05 02:15:41 EST**CASE ID#** 117175167**P2P Network:** AresWareZ**Total Audio Files:** 440

<u>Copyright Owner</u>	<u>Artist</u>	<u>Recording Title</u>	<u>Album Title</u>	<u>SR#</u>
UMG Recordings, Inc.	U2	All I Want Is You	Rattle & Hum	99-818
SONY BMG MUSIC ENTERTAINMENT	Mariah Carey	Honey	Butterfly	244-014
Arista Records LLC	Ace of Base	All That She Wants	The Sign	169-749
SONY BMG MUSIC ENTERTAINMENT	Lauryn Hill	Doo Wop (That Thing)	The Miseducation of Lauryn Hill	254-183
Capitol Records, Inc.	Pink Floyd	Comfortably Numb	The Wall	14-787
UMG Recordings, Inc.	Counting Crows	A Long December	Recovering The Satellites	226-415
BMG Music	David Gray	Babylon	White Ladder	297-324
Warner Bros. Records Inc.	Red Hot Chili Peppers	Under the Bridge	Blood Sugar Sex Magik	135-276